

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT WASHINGTON,

Plaintiff,

v.

STEVEN M. YAPLEE,

Defendant.

Case No. 1:20-cv-01356-EPG (PC)

ORDER RE: PLAINTIFF’S MOTION FOR
SUBPOENAS FOR WITNESSES TO
APPEAR

(ECF No. 78)

Robert Washington (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On March 7, 2023, Plaintiff filed a motion for subpoenas for witnesses to appear. (ECF No. 78). Plaintiff lists five medical professionals that he asserts are California Department of Corrections and Rehabilitation contracted personnel. Plaintiff asserts that they “will appear willingly and do not need to be escort [sic] or forced to appear.” (*Id.* at 1). However, Plaintiff asserts that a subpoena is necessary to provide them with the date and time, because Plaintiff is not allowed to contact them. (*Id.*).

The Court will not issue and serve a subpoena on any witness at this time. As the Court informed Plaintiff in the Second Scheduling Order, “[i]t is the responsibility of the party who has secured an unincarcerated witness’s voluntary attendance to notify the witness of the time and date of trial. No action need be sought or obtained from the Court.” (ECF No. 67, p. 4).

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1 If Plaintiff is unable to contact these witnesses and needs the Court to issue and serve a
 2 subpoena,¹ Plaintiff must “submit a money order made payable to the witness for the full amount
 3 of the witness’s travel expenses plus the daily witness fee of \$40.00. The subpoena will not be
 4 served upon the unincarcerated witness by the United States Marshals Service unless the money
 5 order is tendered to the Court.” (*Id.* at 5).² As Plaintiff has provided the names and locations of
 6 each witness, the Court “will calculate the travel expense for each unincarcerated witness and
 7 notify Plaintiff of the amount(s)” so that Plaintiff can submit the required money orders by April
 8 21, 2023 (*id.* at 4-5), if he so chooses.

9 Accordingly, IT IS ORDERED that:

- 10 1. The Court will not issue and serve a subpoena on any witness at this time;
- 11 2. If Plaintiff wants the Court to issue and serve a subpoena on Doctor Khaled A.
 12 Tawansy, Plaintiff must submit to the Court a money order payable to Doctor Khaled
 13 A. Tawansy in the amount of \$183.45;³
- 14 3. If Plaintiff wants the Court to issue and serve a subpoena on Doctor R. Gines, Plaintiff
 15 must submit to the Court a money order payable to Doctor R. Gines in the amount of
 16 \$142.64;⁴
- 17 4. If Plaintiff wants the Court to issue and serve a subpoena on Registered Nurse
 18 Reynaldo, Plaintiff must submit to the Court a money order payable to Registered
 19 Nurse Reynaldo in the amount of \$142.64;⁵
- 20 5. If Plaintiff wants the Court to issue and serve a subpoena on Doctor Shittu, Plaintiff
 21 must submit to the Court a money order payable to Doctor Shittu in the amount of

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 23 ¹ While Plaintiff asserts these witnesses are willing to testify voluntarily, it is not clear how he knows this,
 24 given his allegation that he cannot provide them with the date and time of the trial because he is not allowed to
 25 contact them.

26 ² The current mileage reimbursement rate is set at \$0.655 per mile. <https://www.gsa.gov/travel/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-pov-mileage-reimbursement-rates> (last visited March 8, 2023).

27 ³ The round-trip distance for this witness to travel from the address listed by Plaintiff to the Fresno federal
 28 courthouse is 219 miles

⁴ The round-trip distance for this witness to travel from North Kern State Prison (the address listed by Plaintiff) to the Fresno federal courthouse is 156.7 miles.

⁵ The round-trip distance for this witness to travel from North Kern State Prison (the address listed by Plaintiff) to the Fresno federal courthouse is 156.7 miles.

